

without regard to the requirements in paragraph (c) of this section, *provided* that:

(i) Appointments and extensions are made in increments of 1 year or less.

(ii) Employment in the same or a successor position under this and any other appointing authority totals less than 6 months (1,040 hours), excluding overtime, in a service year. The service year is the calendar year that begins on the date of the employee's initial appointment in the agency. Should employment in a position filled under this exception total 6 months or more in any service year, the provisions of paragraph (c) of this section will apply to subsequent extension or reappointment unless OPM approves continued exception under this section. An individual may be employed for training for up to 120 days following initial appointment and up to 2 weeks a year thereafter without regard to the service year limitation.

(2) OPM will authorize exceptions to the limits set out in paragraph (c) of this section only when necessitated by major reorganizations or base closings or other unusual circumstances. Requests based on major reorganization, base closing, restructuring, or other unusual circumstances that apply agencywide must be made by an official at the headquarters level of the Department or agency. Requests involving extension of appointments to a specific position or project based on other unusual circumstances may be submitted by the employing office to the appropriate OPM service center.

[59 FR 46898, Sept. 13, 1994]

§ 316.402 Procedures for making temporary appointments.

(a) *General rule.* Except as provided in paragraph (b) of this section, agencies must make temporary limited appointments either by selection from a register or outside a register, in accordance with the procedures set out in 5 CFR part 333.

(b) *Noncompetitive temporary limited appointments.* An agency may give a noncompetitive temporary limited appointment without regard to the exist-

ence of an appropriate register to an individual in one of the categories set out below, and may renew such temporary limited appointments in accordance with the conditions and time limits for extension of temporary appointments published by OPM in the Federal Personnel Manual. An individual who receives a valid appointment under this paragraph will be eligible for such an extension even if his or her eligibility for a noncompetitive appointment expires or is lost (other than for personal cause) during the authorized period of temporary employment. Individuals eligible for noncompetitive temporary appointments are:

(1) A person with eligibility for reinstatement;

(2) A person eligible for career or career-conditional appointment under §§ 315.601, 315.605, 315.606, 315.607, 315.608, or 315.609 of this chapter;

(3) A former temporary employee of the agency who was originally appointed from a register or under the provisions of part 333 of this chapter and whose service meets the time limits for reappointment set out in § 316.401;

(4) Any veteran who meets the qualifications for a veterans readjustment appointment is eligible for employment under this paragraph. The Office will prescribe instructions and guidance in FPM Chapter 316 on temporary limited employment for veterans readjustment appointment eligibles.

(5) A disabled veteran who has been retired from active military service with a disability rating of 30 percent or more, or has been rated by the Veterans' Administration within the preceding year as having a compensable service-connected disability of 30 percent or more.

(6) A person eligible for acquisition of competitive status for career appointment under section 3304(c) of title 5, United States Code. However, a temporary employee does not acquire a competitive status on the basis of this temporary appointment; nor does this

temporary appointment extend or terminate the employee's eligibility under 5 U.S.C. 3304(c).

[44 FR 44814, July 31, 1979, as amended at 45 FR 43365, June 27, 1980; 46 FR 61065, Dec. 15, 1981; 47 FR 27539, June 25, 1982; 49 FR 5601, Feb. 14, 1984; 50 FR 13173, Apr. 3, 1985; 50 FR 42509, Oct. 21, 1985; 52 FR 15706, Apr. 30, 1987; 52 FR 38219, Oct. 15, 1987; 53 FR 20808, June 7, 1988; 55 FR 13500, Apr. 11, 1990; 59 FR 46899, Sept. 13, 1994]

§ 316.403 Designation of provisional appointments.

(a) *Conditions for designation.* An agency may designate a temporary appointment as a provisional appointment only when all of the following conditions are met:

(1) The appointment is made to fill a continuing position by a provisional appointment leading to permanent appointment when the position must be filled more quickly than would be possible under the procedures required for nontemporary appointment or when such a provisional appointment is a requirement of the applicable authority;

(2) The agency must have current budgetary and appointing authority for the nontemporary appointment (assuming satisfactory completion of the required procedures); and

(3) The agency must have a specific intention to convert the appointee to a nontemporary appointment under appropriate authority before the expiration of the temporary appointment, must state this intention in any written offer of employment and document this intention as part of the permanent record of the initial appointment in accordance with instructions issued by OPM in the Federal Personnel Manual.

(b) *Authority for provisional appointments.* Provisional appointments must be made under an authority established by law, Executive order, or regulation or granted by OPM. Appointments which may be treated as provisional appointments under this paragraph may be made under any appropriate authority, including, but not limited to:

(1) Noncompetitive temporary appointments of disabled veterans under § 316.402(b)(2), when the appointments are intended to afford eligibility for conversion in accordance with § 315.707

of this chapter and section 3112 of title 5, United States Code;

(2) Temporary appointments of nurses in the Department of Veterans Affairs, when the appointments are made under the provisions of section 4114 of title 38, United States Code, with the intention of converting the appointees to continuing appointments as soon as the appointees obtain required State certification or registration and/or the agency completes necessary verification of references;

(3) Temporary transitional Schedule C appointments made under § 213.3302 of this chapter, when the appointees are to be converted to nontemporary Schedule C appointments upon OPM approval and completion of necessary clearances.

(4) Senior Executive Service limited term and limited emergency appointments made under § 317.601 of this chapter, when the appointees are to be converted to nontemporary appointments in the Senior Executive Service or to nontemporary Presidential appointments, upon further action, such as OPM approval, White House clearance, and/or confirmation by the Senate; and

(5) Temporary appointments of severely physically handicapped individuals, when such appointments are required to demonstrate qualifications for nontemporary appointment under § 213.3102(u) of this chapter, and when the appointees will be converted to such nontemporary appointment upon successful performance in the trial position.

[56 FR 10142, Mar. 11, 1991, as amended at 60 FR 35120, July 6, 1995]

Subpart E [Reserved]

Subpart F—Appointment Without Competitive Examination in Rare Cases

§ 316.601 Appointment without competitive examination in rare cases.

(a) An agency may make an appointment without competitive examination when:

(1) The duties and compensation of the position are such, or qualified persons are so rare, that in the interest of good civil service administration the